

## REMARKS

### Status of the Application

As per the Office Action mailed September 4, 2003, Claims 1-9, 12-60, 78 and 79 are pending in the application. Claims 41-43 were previously withdrawn from consideration. In the present Response Applicants have canceled claims 10, 11, 23, 24, 37, 38, 41-43, 53, 54 and 61-77; and claims 1, 14, 28, 44, and 78 have been amended to more particularly claim the invention as the acyl hydrazide compounds comprising formulas I, II or III and the oxy amide compounds comprising formula IV. No new matter has been added.

### Rejections of the Claims

Claims 1 to 9, 12 to 40, 44 to 60 and 78 and 79 were rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Applicants have amended claims 1, 14, 28, 44 and 78 to more particularly define the invention as pertaining to the acyl hydrazides of formulas I, II or III and the oxy amides of formula IV. Applicants respectfully assert that the claimed structures are fully enabled by the specification in that specific compounds within each of the claimed formulas have been demonstrated to possess the ability to potentiate the activity of an antibacterial agent. Withdrawal of this rejection is respectfully requested.

Claims 1, 12 and 13 were rejected under 35 U.S.C. § 102 (b) as being anticipated by, or in the alternative, under 35 U.S.C. § 103 (a) as being obvious over, Manoury et al., U.S. Patent No. 4,711,892 ("Manoury"); *Journal of Inorganic Biochemistry* 45(4), pp. 269-275 (1992), Malhotra et al. ("Malhotra I"); or *Journal of Inorganic Biochemistry* 46(2), pp. 119-127 (1992) ("Malhotra II"). The Examiner stated that each of the cited references discloses contacting bacteria with an acyl hydrazide. Applicants traverse, because the cited references do not disclose the use of any potentiator, which is the activity claimed in claims 1, 12 and 13. Moreover, there is no motivation within any of the cited references to use a potentiator. In contrast to an antibiotic, it is not necessary that an antibiotic potentiator have any

antibiotic activity; rather, the activity of a potentiator is in its enhancement and/or facilitation of the activity of an antibiotic agent used in conjunction with the potentiator. Manoury, Malhotra I and Malhotra II disclose specific microbicidal compounds but neither disclose nor suggest the use therewith of a potentiator that is not microbicidal. Moreover, Applicants submit that the disclosures of Malhotra I and Malhotra II are not relevant to the claimed invention, since Malhotra I and Malhotra II disclose metal complexes, some of which are purported to be more toxic to microbes than the ligands from which the complex are formed. Accordingly, Applicants respectfully assert that claims 1, 12 and 13 are neither anticipated by nor obvious over Manoury or Malhotra I or Malhotra II.

Claims 14, 23-26, 35-40, 44, 53-60 and 78-79 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Abbruzzese et al., U.S. Patent No. 4,058,613 in view of *Antimicrobial Agents and Chemotherapy* 42(7), pp. 1762-1770 (1998), Pfaller et al. ("Pfaller"). This rejection is respectfully traversed. Abbruzzese discloses quinoline derivatives having fungicidal activity. Pfaller discloses only the results of a study of antimicrobial resistance, and necessarily lists a number of antimicrobial agents. Applicants submit that the disclosure of Pfaller is not relevant to the claimed invention, and furthermore, that there is no motivation in either Abbruzzese or Pfaller to combine the two documents. Moreover, the claims as amended do not recite hydroxy quinoline structures. Thus, Applicants respectfully request that this rejection be withdrawn.

### **CONCLUSION**

In view of the above Remarks and the amendments entered herein, Applicants submit that all of the claims stand in condition for allowance. Prompt issuance of a Notice of Allowance is therefore respectfully requested.

In order to expedite completion of the prosecution and allowance of the present application, the Examiner is respectfully requested to telephone the undersigned to discuss any remaining issues.

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Applicant believes the appropriate fees due in connection with the filing of this Response and Extension of Time are provided herewith. However, should a fee be due that is not accounted for authorization is given to charge such fees to Deposit Account No. 501447 (Potter Anderson & Corroon LLP).

Respectfully submitted,

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